

1982 S.C. Op. Atty. Gen. 10 (S.C.A.G.), 1982 S.C. Op. Atty. Gen. No. 82-7, 1982 WL 154977

Office of the Attorney General

State of South Carolina

Opinion No. 82-7

March 1, 1982

***1 SUBJECT: Bonds—Custody of Proceeds of a School Bond Issue**

(1) Section 59–71–180 requires that the proceeds from the sale of school bonds be deposited with the county treasurer.

(2) When school district funds are held by an agency of the Federal Government, there is no responsibility upon the treasurer to account for the funds.

TO: Honorable Earle E. Morris, Jr.
Comptroller General

QUESTIONS:

1. Can the proceeds of a school bond issue be deposited with the bond purchaser?
2. What is the responsibility of the county treasurer to account for the funds under such circumstances?

APPLICABLE LAW:

[Article X, Section 15 of the South Carolina Constitution](#) and [Section 59–71–180 of the 1976 South Carolina Code](#) of Laws.

DISCUSSION:

The school district by referendum was authorized to issue the bonds. By agreement with the purchaser (an agency of the United States Government), the proceeds from the bonds are to be retained by the purchaser and paid as directed by the school district. The request is for the opinion of this office of whether this procedure is authorized and the responsibility of the county treasurer thereunder.

The school district may incur bonded indebtedness as authorized by the General Assembly. [Article X, Section 15\(1\) of the Constitution](#) provides:

‘The school districts of the State shall have the power to incur general obligation debt only in such manner and upon such terms and conditions as the General Assembly shall prescribe by law within the limitations set forth in this section.’ (Emphasis added)

Subsection 5(a) thereof further provides:

‘If the general obligation debt be authorized by a majority vote of the qualified electors of the school district voting in a referendum authorized by law, there shall be no conditions or restrictions limiting the incurring of such indebtedness except:
(a) those restrictions and limitations imposed in the authorization to incur such indebtedness;’

The General Assembly has provided in Chapter 71 of Title 59 the manner in which the bounded indebtedness may be incurred. [Section 59-71-180](#) provides:

‘The proceeds derived from the sale of the bonds shall be deposited with the treasurer of the county wherein the operating school unit is located, in whole or in part, in a special fund to the credit of the operating school unit and shall be applied solely to the purposes for which the bonds were issued, except that the premium, if any, shall be placed in the sinking fund established by § 59-71-150 and the accrued interest, if any, shall be used to discharge in part the first interest to become due on such bonds.’

Compliance must be had with this statutory procedure.

‘The statutes or other provisions authorizing municipal corporations and other political subdivisions to issue bonds or notes usually prescribe a certain procedure for exercise of the power; and when power is granted by law to counties, districts, or municipalities, the exercise of the power must be in accord with the grant. The power of a municipality to issue bonds must be exercised in the particular manner specified, if one is specified. Where a power is granted and the method of its exercise prescribed, the prescribed method excludes all others, and must be followed.’ 64 Am.Jur.2d, Public Securities and Obligations, § 88, p.120.

CONCLUSION:

*2 It is therefore the opinion of this office that [Section 59-71-180](#) requires that the proceeds from the sale of school bonds be deposited with the county treasurer.

Question 2. Request is also made of whether the treasurer is responsible for the bond proceeds when the same are held by an agency of the Federal Government. The treasurer does not have custody of the funds and the same are not payable to the treasurer.

CONCLUSION:

It is therefore the opinion of this office that when school district funds are held by an agency of the Federal Government, there is no responsibility upon the treasurer to account for the funds.

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